

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

“TRACK 3 CASES”

MDL 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**STIPULATION ESTABLISHING PROCEDURE FOR
DESIGNATION AND USE OF DEPOSITION TESTIMONY AT TRIAL**

To coordinate the procedure for the designation and use of deposition testimony for trial as ordered by the Court, this Stipulated Order is entered to establish the following schedule and procedure:

Category of Deadline	Agreed-Upon Deadline
1. Parties exchange affirmative designations for any witnesses not previously exchanged in 1B, or where designations are materially different than exchanged in 1B.¹	July 23, 2021
2. Parties exchange responsive designations for the above. In addition to their responsive designations, the Parties may make additional non-repetitive and non-responsive	August 11, 2021

¹ Defendants have asked for the inclusion of Categories of Deadlines 1-3 understanding that the over-designation of testimony is likely to occur given the exchange date is three months before trial. The Parties will perform Categories of Deadlines 1-3 in good faith, recognizing that these designations will necessarily be broader than the final designations exchanged pursuant to the deadlines associated with Categories of Deadlines 8-11. For this reason, the Parties will not exchange objections to affirmative or responsive designations for Categories of Deadlines 1-2 and will not seek rulings from the Court on the admissibility of these designations, until Categories of Deadlines 8-11, absent agreement. The Parties may still revise designations and exchange reply designations pursuant to Categories of Deadlines 4-7 or 8-11. Any Party may also designate a new witness, pursuant to Categories of Deadlines 8-11, for good cause (*e.g.*, if a witness becomes unavailable, if a deposition occurs after earlier designation deadlines, or to designate from a rebuttal witness).

designations from the depositions previously affirmatively designated during this period.	
3. Parties meet and confer to attempt to reach agreement on witnesses for whom to submit limited advance deposition designations.	August 12-13, 2021
4. Disclosure of limited advance affirmative designations for depositions to be played trial²	August 20, 2021
5. Objections to limited advance affirmative deposition designations due Limited advance Completeness and counter-designations due³	August 27, 2021
6. Objections to limited advance completeness and counter-designations due Reply designations to limited advance designations due	September 3, 2021
7. Submit limited advance deposition designations and related objections for ruling by Special Master Cohen	September 13, 2021
8. Affirmative deposition designations disclosed⁴	9p.m. on the Friday two weeks prior to the week of anticipated use at trial
9. Objections to affirmative deposition	Completeness and counter designations, as well as any objections to affirmative

² For the convenience of the Court and the Special Master, to the extent the Parties have deposition designations that they are fairly certain they will seek to play at trial, the Parties may submit, in advance of trial, a limited number of deposition designations and related objections for rulings. The Parties will work in good faith to present only those designations that they are fairly certain will be used at trial. Nothing here is meant to supplant the procedures regarding deposition designations laid out in Categories of Deadlines 1-2 and 8-11.

³ Testimony from a different witness may not be used as a completeness or counter-designation at trial; however, the Parties may supplement their affirmative designations, including by adding affirmative designations by a new witness, to address any testimony affirmatively designated by the opposing Party by **August 27, 2021**.

⁴ The Parties agree to work in good faith to identify a mutually agreeable format for the exchange of page and line citations for deposition testimony in a manner that permits their respective technical teams to efficiently cut the final videos. The parties further agree that attorney objections and commentary shall not be included in any parties' designations.

designations due Completeness and counter-designations due⁵	designations, will be disclosed on Monday prior to the week of anticipated use at trial at 7 p.m.
10. Objections to completeness and counter-designations due Reply designations due	Reply designations, as well as any objections to completeness and counter designations, will be disclosed on Wednesday at 7 p.m.
11. Meet and confer regarding objections	The parties will meet and confer regarding objections to designations. All unresolved objections shall be submitted to Special Master Cohen and/or the Court for resolution on Saturdays prior to the week of anticipated use at trial.
12. Offering party provides final video files and transcripts of deposition testimony (including all remaining affirmative, completeness, counter, and reply designations) to non-offering parties for their review prior to introduction at trial.	The offering party will disclose final video files and transcripts by 12 PM noon on the day prior to play.

⁵ Testimony from a different witness may not be used as a completeness or counter-designation at trial; however, the Parties may supplement their affirmative designations, including by adding affirmative designations from a new witness, to address any testimony affirmatively designated by the opposing Party at the same time as completeness and counter designations.